

HOUSE No. 296

By Mr. Pedone of Worcester, petition of Vincent A. Pedone and others for legislation to protect the rights of consumers in motor vehicle repair transactions. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

PETITION OF:

Vincent A. Pedone
Martin J. Walsh

Mark C. Montigny

In the Year Two Thousand and Seven.

AN ACT TO PROTECT THE RIGHTS OF CONSUMERS TO DIAGNOSE, SERVICE, AND REPAIR, OR HAVE REPAIRED FOR THEM, MOTOR VEHICLES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This Act may be cited as “The Massachusetts
2 Motor Vehicle Owners’ Right to Repair Act of 2007.”

1 SECTION 2. The Legislature finds and declares that:
2 a) The ability to diagnose, service, and repair a motor vehicle
3 in a timely, reliable, and affordable manner is essential to the
4 safety and well-being of consumers in this Commonwealth.
5 b) Consumers are entitled to choose among competing repair
6 facilities for the convenient, reliable, and affordable repair of their
7 motor vehicles.
8 c) Increased competition among repair facilities will benefit
9 vehicle owners in this Commonwealth.
10 d) Computers of various kinds are commonly being used in
11 motor vehicle systems, such as pollution control, transmission,
12 anti-lock brakes, electronic and mechanical systems, heating and
13 air conditioning, mobile electronics, airbags, and steering.
14 e) The diagnosis, service, and repair of these vehicle systems
15 are essential to the safe and proper operation of motor vehicles.

16 f) In many instances, access codes prevent owners from
17 making, or having made, the necessary diagnosis, service, and
18 repair of their motor vehicles in a timely, convenient, reliable, and
19 affordable manner.

20 g) Vehicle owners in the Commonwealth of Massachusetts
21 must have the right:

22 (1) to obtain all information necessary to provide for the diag-
23 nosis, service, and repair of their vehicles;

24 (2) to choose between original parts and aftermarket parts
25 when repairing their motor vehicles; and

26 (3) to make, or have made, repairs necessary to keep their
27 vehicles in reasonably good and serviceable condition during the
28 life of the vehicle.

29 h) The restriction of access to vehicle repair information
30 inherently limits who can repair motor vehicles and what brands
31 of parts may be used to repair those vehicles, which limits con-
32 sumer choice, and impedes competition.

1 SECTION 3. The purposes of this Act are:

2 a) to ensure the safety of all vehicle owners in the Common-
3 wealth of Massachusetts by requiring disclosure of all information
4 necessary for the proper diagnosis, service, and repair of a motor
5 vehicle in a timely, reliable, and affordable manner.

6 b) to encourage competition in the diagnosis, service, and
7 repair of motor vehicles in the Commonwealth of Massachusetts.

1 SECTION 4. Notwithstanding any General or special law, or
2 any rule or regulation, to the contrary, all manufacturers of motor
3 vehicles sold in the Commonwealth of Massachusetts must:

4 a) Promptly provide to the vehicle owner, or to a repair
5 facility of the motor vehicle owner's choosing, the information
6 necessary to diagnose, service, or repair the vehicle. The motor
7 vehicle manufacturer must make available all non-emission-
8 related service information, training information, and diagnostic
9 tools on a non-discriminatory basis to any repair facility of the
10 owner's choosing, and must not limit such information to those
11 repair facilities that are within the manufacturers' approved net-
12 work. The information to be made available must include the
13 following:

14 (1) the same service and training information related to vehicle
15 repair must be made available to all independent vehicle repair
16 facilities in the same manner and extent as it is made available to
17 franchised dealerships, and must include all information needed to
18 activate all controls that can be activated by a franchised dealer-
19 ship.

20 (2) the same diagnostic tools and capabilities related to vehicle
21 repair that are made available to franchised dealerships must be
22 made available to independent vehicle repair facilities. These
23 diagnostic tools and capabilities must be made available for pur-
24 chase by motor vehicle owners or their agents through reasonable
25 business means. The service and training information and manu-
26 facturer diagnostic capabilities must be available to independent
27 vehicle repair facilities, and to the companies from which they
28 normally purchase diagnostic tools, without the need for the motor
29 vehicle owner to return to a franchised dealership.

30 b) Protection of Trade Secrets.

31 Nothing in this Act shall be deemed to require the disclosure of
32 trade secrets, nor the public disclosure of any information related
33 exclusively to the design and manufacturer of motor vehicle parts.
34 No information necessary to repair a motor vehicle shall be with-
35 held by a manufacturer if such information is provided, either
36 directly or indirectly by such manufacturer, to franchised dealer-
37 ships or other vehicle repair facilities.

1 SECTION 5. Not later than one year after the date of enactment
2 of this Act, the Office of Consumer Affairs and Business Regula-
3 tion shall prescribe regulations setting forth an appropriate and
4 uniform method by which motor vehicle manufacturers must pro-
5 vide the information required by Section 4 of this Act, including
6 disclosure in writing, on the Internet, or in any other manner, or
7 under such terms as the Office of Consumer Affairs and Business
8 Regulation shall deem appropriate. These regulations shall take
9 effect upon final issuance of such regulations and shall apply to
10 vehicles manufactured after the 1994 model year.

1 SECTION 6. Notwithstanding any General or special law, or
2 any rule or regulation, to the contrary, the Office of Consumer
3 Affairs and Business Regulation may not prescribe any regula-
4 tions that:

- 5 a) interfere with the authority of the Administrator of the
6 Environmental Protection Agency under section 202(m) of the
7 Clean Air Act (42 U.S.C. 7521(m)) with regard to motor vehicle
8 emissions control diagnostic systems; or
9 b) conflict with any rules and/or regulations prescribed by the
10 Administrator of the Environmental Protection Agency under that
11 section.

1 SECTION 7. Notwithstanding any General or special law, or
2 any rule or regulation, to the contrary any violation of any of the
3 provisions of this Act committed by any manufacturer of a motor
4 vehicle offered for sale in the Commonwealth, in addition to any
5 other penalty provided by law, shall be subject to a penalty of not
6 more than \$10,000.00 for the first offense and not more than
7 \$20,000.00 for the second and each subsequent offense. In the
8 event of ongoing non-compliance with this Act, such manufac-
9 turer shall be subject to a penalty of not more than \$20,000.00
10 after each period of sixty days of ongoing non-compliance. A
11 vehicle owner or a repair facility may bring a civil action to enjoin
12 a violation of this Act, and to recover all economic damages
13 arising from such violation(s), and all costs of litigation, including
14 reasonable attorney and expert witness fees.